United Nations CRPD/C/AZE/CO/1

Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Concluding observations on the initial report of Azerbaijan*

I. Introduction

1. The Committee considered the initial report of Azerbaijan (CRPD/C/AZE/1) at its 125th and 126th meetings (see CRPD/C/SR.125 and CRPD/C/SR.126), held on 1 and 2 April 2014 respectively, and adopted the following concluding observations at its 139th meeting.

2. The Committee welcomes the initial report of Azerbaijan, which was prepared in accordance with the Committee's reporting guidelines, and commends the State party for its written replies (CRPD/C/AZE/Q/1/Add.1) to the list of issues prepared by the Committee.

3. The Committee appreciates the constructive dialogue with the State party's high-level delegation, which included representatives of relevant government ministries and departments. The Committee commends the delegation's frank responses to the questions posed by members of the Committee.

II. Positive aspects

4. The Committee commends the State party for its efforts to review and amend its legislation, particularly the adoption of Law No. 137-IVQD on Amendments to the Criminal Code of the Republic of Azerbaijan of 31 May 2011, relating to freedom and punishment.

5. The Committee also commends the State party for initiating programmes on the rights of persons with disabilities, such as the State Programme on De-Institutionalization and Alternative Care 2006-2015 and the State Programme on Inclusive Education as well as its achievements in ensuring accessibility to new court buildings.

6. The Committee further commends the State party for establishing a working group under the Ministry of Labour and Social Protection of Population consisting of representatives from relevant government agencies and non-governmental organizations of persons with disabilities, which is mandated to coordinate the implementation of the provisions of the Convention in the State party. The Committee urges the State party to

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maintain the Working Group for the purpose of periodic review of progress made in mainstreaming disability issues and needs in national legislative, policy and development frameworks.

7. The Committee also commends the State party for its role in cooperating with other States parties in the region on issues under the Convention.

III. Principal areas of concern and recommendations

A. General principles and obligations (arts. 1–4)

8. The Committee notes that the State party has a draft law on the rights of persons with disabilities, which purportedly seeks to incorporate the provisions of the Convention. However, the Committee is concerned that the State party's legislation and policies still refer to the medical model of disability. The Committee is also concerned that the State party's harmonization efforts only relate to this specific draft law and not to the whole of the State's legal order. The Committee is further concerned that there is a need for legislative harmonization and the revision of the nomenclature which the State party uses to refer to persons with disabilities, in order to prevent derogatory language.

9. **The Committee recommends that the State party review and harmonize its legislation, as well as ensure that the new draft law on the rights of persons with disabilities strictly complies with the provisions of the Convention, by adopting the human rights-based model of disability. In the conduct of the review and harmonization of legislation, the State party should ensure the full participation of persons with disabilities and their representative organizations. The State party should further revise its legislation and policies with a view to removing all disparaging and degrading references to persons with disabilities.**

10. The Committee is concerned that sign language, despite its use in the State party, is still not officially recognized.

11. **The State party should take effective steps to recognize sign language as one of the official languages of the State party.**

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

12. The Committee is concerned that legislation on equality and non-discrimination in the State party lacks an express prohibition of disability-based discrimination, which presents challenges with regard to compliance with the law by the general public.

13. **The Committee recommends that the State party include in the new draft law on the rights of persons with disabilities an express prohibition of disability-based discrimination and multiple forms of discrimination experienced by persons with disabilities. The Committee also urges the State party to incorporate the concept of reasonable accommodation into its new draft law on the rights of persons with disabilities and to ensure that this piece of legislation and all other relevant laws clearly affirm the denial of reasonable accommodation as a form of discrimination on the grounds of disability.**

14. The Committee is concerned at the lack of statistical information on the number of persons with disabilities belonging to national minorities, especially the Lezghin and the Talysh populations, which, according to the Committee on Economic, Social and Cultural

Rights (E/C.12/AZE/CO/3), continue to be the victims of widespread discrimination, particularly in employment, housing, health and education.

15. **The Committee recommends the introduction of policies targeted at eliminating discrimination among persons with disabilities pertaining to national minorities, especially the Lezghin and the Talysh populations, that recognize that persons with disabilities often suffer from multiple forms of discrimination.**

Women with disabilities (art. 6)

16. The Committee notes that the State party adopted Law N-150-IIIQ on Gender Equality in 2006 and the Law on the Prevention of Domestic Violence in 2010. However, the Committee is concerned that these pieces of legislation do not specifically address women and girls with disabilities.

17. **The Committee recommends that the State party adopt effective and specific measures to guarantee equality and to prohibit multiple forms of discrimination against women and girls with disabilities. The Committee encourages the State party to adopt a twin-track approach to mainstreaming a disability perspective into its gender legislation and policy, including with respect to addressing violence against women and ensuring effective access to information and services on sexual and reproductive health; and to facilitate advocacy by and on behalf of women and girls with disabilities. In this regard, the Committee encourages the State party to ensure that the National Activity Plan on the Enhancement of the Efficiency of Human Rights and Freedoms addresses the rights of women and girls with disabilities.**

Children with disabilities (art. 7)

18. In its 2012 concluding observations on Azerbaijan (CRC/C/AZE/CO/3-4), para. 34, the Committee on the Rights of the Child expressed deep concern regarding the high rate of infant mortality in the State party, which is allegedly the fifth highest in Europe. Furthermore, that Committee expressed concern that the State party's definition of a live birth is not consistent with the internationally recognized World Health Organization definition. The Committee on the Rights of Persons with Disabilities reiterates the concerns by the Committee on the Rights of the Child and further expresses concern at the lack of data on the number of children born with disabilities who are affected by the State party's high rate of infant mortality, particularly at how this state of affairs is affecting the birth registration of boys and girls with disabilities.

19. **The Committee reiterates the recommendations of the Committee on the Rights of the Child and requests that the State party expedite their implementation. The Committee further recommends that the State party compile data indicating the number of children born with disabilities who are affected by the high infant mortality rate in the State party. The Committee therefore urges the State party to conduct a study on the mortality of boys and girls with disabilities and to expeditiously step up its efforts to reduce infant mortality, in accordance with the implementation of the World Health Organization definition of a live birth.**

Awareness-raising (art. 8)

20. The Committee is concerned at reports of persistent negative stereotypes and prejudices against persons with disabilities in society, which negatively affect their ability to enjoy rights on an equal basis with others.

21. **The State party should introduce specific programmes, including awareness-raising programmes, aimed at eliminating negative stereotypes and prejudices towards persons with disabilities in society. The Committee calls upon the State party**

to take initiatives in relation to awareness-raising and training for government officials, health, legal, educational and social work professionals, the judiciary, police, elections officers, media practitioners/journalists and other staff to effectively modify society's perception of persons with disabilities as being in need of protection, by portraying a positive image of persons with disabilities as holders of human rights. The Committee further recommends that the State party support and include organizations of persons with disabilities and their representatives, as well as other civil society representatives, in its programmes to enable them to fully participate in awareness-raising initiatives.

Accessibility (art. 9)

22. The Committee is concerned at the lack of information on the existence of an accessibility plan and at reports that public transport and other public buildings remain inaccessible to persons with disabilities due to the existing barriers.

23. **The Committee recommends that the State party develop a comprehensive accessibility plan in accordance with article 9 of the Convention, which sets benchmarks for the removal of existing barriers, and promote universal design for all buildings. In this regard, the Committee recommends that the State party allocate sufficient resources for the monitoring of the implementation of accessibility standards throughout the State party, including establishing enforceable and deterrent sanctions for non-compliance. The State party should also step up its efforts aimed at adapting information into accessible formats and the use of modern, accessible information communication technology systems.**

Situations of risk and humanitarian emergencies (art. 11)

24. The Committee notes that the State party has an Activity Plan on the evacuation of persons with disabilities from areas of emergency and the provision of humanitarian assistance. However, the Committee is concerned at the lack of detailed information regarding the training provided to staff involved in the evacuation of persons with disabilities during emergencies.

25. **The Committee urges the State party to take measures to provide training to persons charged with the task of evacuating persons with disabilities in the event of an emergency. The Committee recommends that the State party undertake to adopt and implement a comprehensive plan on disaster risk reduction which is fully accessible and fully inclusive.**

Equal recognition before the law (art. 12)

26. The Committee is concerned that the Civil Code, which governs matters of guardianship and trusteeship, continues to advance substituted decision-making instead of supported decision-making, contrary to the provisions of article 12 of the Convention, thereby restricting the exercise of rights such as the right to vote and access to justice.

27. **The Committee recommends that the State party amend the Civil Code with a view to replacing substituted decision-making with supported decision-making for persons with disabilities, and ensure that persons with disabilities exercise all rights, including the rights to vote and to adopt children, inter alia. The Committee recommends that supported decision-making structures be introduced which fully respect the person's autonomy, will and preferences, and are in full conformity with article 12 of the Convention with regard to the exercise of his or her rights under the Convention.**

Liberty and security of the person and freedom from torture or cruel, inhuman or degrading treatment or punishment (arts. 14 and 15)

28. The Committee is concerned that the law permits the deprivation of liberty on the basis of disability and provides for involuntary hospitalization and forced institutionalization of children and adults with intellectual and/or psychosocial disabilities. The Committee is particularly concerned at reports of poor health care in such places.

29. **The Committee urges the State party to repeal laws and prohibit disability-based detention of children and adults with disabilities, including involuntary hospitalization and forced institutionalization, and ensure that all relevant legislation and policies in this area are in line with the Convention. It should also develop support services in the community and accelerate deinstitutionalization strategies based on the human rights model of disability in consultation with organizations of persons with disabilities.**

30. The Committee is concerned at reports of poor living conditions of persons with disabilities in certain places of deprivation of liberty.

31. **The Committee calls upon the State party to ensure that all places of deprivation of liberty, particularly prisons, maintain accessible and humane living conditions in line with the Convention. In this regard, the State party should ensure that monitoring bodies such as the Office of the Ombudsman and the National Preventive Mechanism have sufficient resources and unimpeded access to all places of deprivation of liberty in the State party.**

Living independently and being included in the community (art. 19)

32. The Committee is concerned that, notwithstanding the State party's efforts to implement the State Programme on De-Institutionalisation and Alternative Care 2006-2015 and to reduce the number of people living in institutions, the level of institutionalization remains high, particularly among children. The Committee is particularly concerned at the lack of information on the promotion of independent living for persons with intellectual disabilities instead of their institutionalization in psychiatric institutions.

33. **The Committee recommends that the State party step up the implementation of its de-institutionalization programme strategies with a view to promoting community-based services and supporting independent living. The Committee further recommends that the State party ensure that social assistance programmes provide sufficient financial assistance to facilitate independent living in the community.**

Freedom of expression and opinion, and access to information (art. 21)

34. The Committee also notes that, while progress has been made in providing information in accessible formats and in effectively promoting and facilitating the use of braille and sign language, gaps still persist.

35. **The Committee recommends that the State party develop the use of other accessible communication formats in line with international standards by allocating adequate funding for their development, promotion and use, as well as for professional training for sign language interpreters and teachers including those in public service, in accordance with articles 9; 21; 24, paragraph 3; and 29 (b) of the Convention in cooperation with organizations of persons with disabilities, including deaf persons' organizations.**

Respect for home and family (art. 23)

36. The Committee is concerned about existing laws that prevent persons with specific forms of disability from adopting children and having a family.

37. **The Committee urges the State party to repeal all existing legislation that prevents persons with disabilities from adopting children and provide a new legislative framework that includes support for parenting.**

38. The Committee also expresses its concern about the legislation in force in the State party which allows the parents of a newborn boy or girl to place him/her in the custody of the State solely on the basis of his/her disability, without taking into account the best interests of the child. The Committee is further concerned that legislation in the State only allows for the adoption of children who are under five years old, which limits their rights under article 23.

39. **The Committee recommends that the State party prohibit the placement by their fathers and mothers of newborn boys and girls with disabilities in the custody of the State solely on the basis of their disability. It further recommends that prohibition be complemented by the strengthening of support measures to enable mothers and fathers to take care of their children with disabilities, and that in those cases in which the possibility of placement is considered as a measure of protection, the best interests of the child should be duly respected. Furthermore, the Committee urges the State party to increase the age limit for adoption purposes.**

Education (art. 24)

40. The Committee is concerned that children with disabilities continue to be placed in special boarding and other specialized schools.

41. **The Committee recommends that the State party:**

(a) Step up efforts to provide inclusive education and reasonable accommodation in schools and other learning institutions by providing, inter alia, assistive technology and support in classrooms, accessible and adapted educational materials and curricula, as well as accessible school environments;

(b) Allocate sufficient financial and human resources to implement the State Programme on Inclusive Education;

(c) Step up efforts to provide quality training for teachers, including teachers with disabilities, in the use of braille and sign language with a view to enhancing the education of all categories of children with disabilities, including deaf and hard-of-hearing girls and boys; and ensure that inclusive education is an integral part of core teacher training in universities;

(d) Conduct research into the effectiveness of the current inclusive education programme and the extent to which accessibility standards are being complied with in the State party; and

(e) Include in its next periodic report data, disaggregated by academic year, sex and disability as well as region, on the number of inclusive schools that have enrolled students with disabilities.

Work and employment (art. 27)

42. The Committee notes that the State party has a quota system for employing persons with disabilities. However, the Committee is concerned that the number of persons benefiting from these quotas is very low. The Committee is further concerned at the lack of

adequate employment programmes to complement the use of quotas to enable persons with disabilities to participate effectively in the open labour market.

43. **The State party should ensure that the quota system significantly enhances the participation of persons with disabilities in the labour market by ensuring enforcement through effective sanctions for non-compliance. The State party should also expand its existing programmes, including vocational training programmes, with a view to enhancing the skills of persons with disabilities to enable them to participate competitively in the open labour market. The State party should further step up its efforts in the provision and enforcement of reasonable accommodation in the labour sector.**

Participation in political and public life (art. 29)

44. The Committee is concerned at the lack of information on the participation of persons with disabilities as candidates in elections and their representation in elected and appointed bodies. The Committee is further concerned about the exclusion from the right to vote of persons with disabilities who are under guardianship.

45. **The Committee urges the State party to remove restrictions and immediately restore the right to vote for persons deprived of legal capacity and to continue to improve its efforts to ensure that voting is fully accessible to all persons, irrespective of disability, and that voting information is provided in all accessible formats. It further recommends that the State party take specific measures to promote the participation of persons with disabilities in elected bodies. In this regard, the State party should provide information in its next periodic report on the representation of persons with disabilities in all elected and appointed bodies of the State party.**

Participation in cultural life, recreation, leisure and sport (art. 30)

46. The Committee is concerned at the fact that the State party has not signed or ratified the World Intellectual Property Organization Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled which allows access to published material for blind persons, persons with visual impairments or persons with other difficulties in accessing printed materials.

47. **The Committee encourages the State party to adopt all appropriate measures in order to sign, ratify and implement the Marrakesh Treaty as soon as possible.**

Cooperation between States parties and the Committee (art. 37)

48. **By virtue of article 37 of the Convention, the Committee offers technical assistance to the State party, to be facilitated by the expert advice of its members, through the Secretariat. Furthermore, the State party may likewise request technical assistance from specialized agencies of the United Nations based in the State party or in the region.**

C. Specific obligations (arts. 31–33)

Statistics and data collection (art. 31)

49. While noting that the State party is in the process of developing a database on issues affecting persons with disabilities and also noting its efforts to collect data, the Committee is concerned at the lack of disaggregated data on persons with disabilities.

50. **The Committee recommends that the State party expedite the creation of a database and systematize the collection, analysis and dissemination of data,**

disaggregated by sex, age and disability as well as region; enhance capacity-building in this regard; and develop gender- and age-sensitive indicators to support legislative developments, policymaking and institutional strengthening for monitoring and reporting on progress made with regard to the implementation of the various provisions of the Convention, taking into consideration the changes from the medical- to the human rights-based approach to disability.

International cooperation (art. 32)

51. **The Committee encourages the State party to ensure that all international cooperation carried out on its territory, or in partnership with it, is fully inclusive of persons with disabilities, and promotes their active participation in international cooperation projects.**

52. **The Committee calls for the integration of a disability rights-based perspective, in accordance with the provisions of the Convention, into all efforts aimed at the achievement of the Millennium Development Goals and into the post-2015 Development Agenda.**

Follow-up and dissemination

53. The Committee requests that the State party, within 12 months and in accordance with article 35, paragraph 2, of the Convention, provide information on the measures taken to implement the Committee's recommendations as set forth in paragraph 37 above.

54. The Committee requests that the State party implement the recommendations of the Committee as contained in the present concluding observations. It recommends that the State party transmit the concluding observations for consideration and action to members of the Government and parliament, officials in relevant ministries, members of relevant professional groups, such as education, medical and legal professionals, as well as local authorities and the media, using modern social communication strategies.

55. The Committee strongly encourages the State party to involve civil society organizations, in particular disabled persons' organizations, in the preparation of its periodic report.

56. The Committee requests the State party to disseminate these concluding observations widely, including to non-governmental organizations and representative organizations of persons with disabilities, as well as to persons with disabilities themselves and members of their families, in national and minority languages, including sign language, and accessible formats.

Next report

57. The Committee requests the State party to submit its combined second and third periodic reports no later than 28 February 2019 and to include therein information on the implementation of the present concluding observations. Likewise, the Committee offers to the State party the option of submitting the above-mentioned reports under the Committee's simplified reporting procedure, whereby the Committee prepares a list of issues at least one year prior to the date when the combined reports are due. The replies of the State party to this list of issues are considered as the report of the State party.